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36. The textile of claim 30, wherein said towel is selected from the class of a bath towel, beach towel, kitchen towel, or a sport towel.

### REMARKS

On page 2 of the Office Action, the Examiner has memorialized in writing the Restriction Requirement dated September 20, 2002. At that time, applicants elected Group 1, claims 1 – 15 drawn to a woven textile with a graphic impression. The method claims 16 – 20 have subsequently been withdrawn from further consideration by the Examiner as being drawn to a non-elected invention.

On page 3, paragraph 5 of the Office Action, the Examiner objects to the drawing as failing to contain reference numeral 18 which is mentioned on page 9 of the specification. The drawing has been corrected and is submitted simultaneously herewith showing reference numeral 18.

On page 3, paragraph 6 of the Office Action, the Examiner has objected to the disclosure as containing a typographical error on page 5, second full paragraph. The specification has now been amended as set forth above.

On page 3, paragraph 7 of the Office Action, the Examiner objects to claims 6, 8, 10, 11, 14, and 15 under 35 U.S.C. 112 as being indefinite relative to “the class” and “said area” and “said impression”. Claims 1 – 20 have been cancelled and these rejections are moot. Nevertheless, with respect to claim 6, the Examiner states “that there is insufficient antecedent basis for the class”. This is a Markush Group claim and no antecedent basis is necessary for “the class”. The Examiner states that there is no support for “said area”. In fact claim 3, from which claim 10 depends, does describe a central area. Lastly, the Examiner states in claim 11 that there is no support for “said impression”. Claim 1 calls for a graphic impression.

On page 4, paragraph 12, the Examiner rejects claims 1 – 4, 7, 9, and 13 – 15 under 35 U.S. C. 102(b) as being anticipated by Hobson. In view of the cancellation of these claims, this rejection is no longer pertinent. Nevertheless, a few comments concerning Hobson are appropriate. Hobson discloses printing certain desired patterns on yarns. Those yarns are then wound on a beam, and the beam is taken to a loom where the textile is woven. On the other hand, the present invention applies a graphic impression on a completed woven fabric. This is different than Hobson.

On page 5, paragraph 13, the Examiner has rejected claims 1, 2, 14, and 15 under 35 U.S.C. 102(e) as been anticipated by Carpenter et al. The Examiner states that Carpenter et al. disclose applying a printed pattern to Jacquard woven fabric. Again, these claims have been cancelled in favor of new claims. However, Carpenter et al., like Hobson, teaches printing a pattern on yarns which are then woven into a fabric. Carpenter does not teach printing a pattern on woven fabric as suggested by the Examiner. Carpenter et al. is equivalent to U.S. Patent to Wildeman et al. cited by applicant on page 3 of the specification.

On page 6, paragraph 15 the Examiner has rejected claims 5, 6, 8, and 10 – 12 under 35 U.S.C. 103 as being unpatentable over Hobson. In view of the new claims, it is submitted that this rejection is no longer pertinent.

On page 6, paragraph 16 of the Office Action the Examiner has rejected claims 3 – 8 and 10 – 13 under 35 U.S.C. 103 as being unpatentable over Carpenter et al. In view of the new claims, it is submitted that this rejection is no longer pertinent.

#### Interview

An interview was had with Examiner Befumo on November 6, 2002 at the U.S. Patent Office. During this interview, which included Mr. Rick Sheppard, President of Devant, the Assignee, and the undersigned, Mr. Sheppard discussed how commercially successful this product was for the company. Additionally, towels utilizing the combination

of jacquard weaving and a graphic impression designs for which protection is sought (by this application) were left with the Examiner. During the discussion, the Examiner suggested changing the claims to product by process claims to more clearly define the structure of the finished product. Subsequently, claims 21 – 28 are product by process claims to more clearly define the structure of the finished product. Also new claims 29 – 36 directed to the product of the present invention are also included. To more fully support the discussion and to further demonstrate the present invention, three more towels are submitted simultaneously with this reply. The first of these towels has a mere logo on the central portion of the towel. The second towel has the same logo but includes background text of a lighter color which is overdyed into the dark border. Towels of this type do not require precision alignment because the text is merely overdyed or image dyed into the dark border. Unlike Hobson and Carpenter et al., both of which require very precise alignment techniques, the present invention enjoys the benefit of not being concerned about precise alignment. The third towel includes the same logo as the first towel, but has a background design featuring both light and dark colors. Again the background design is bled into the dark border such that no precision alignment is required.

Claim 21 now calls for a towel in which the border is woven (processed) employing a first color. The central area on the backside of the towel is also “the first color”. The color of the border on the backside and the central area on the image side is a second color. Weaving such a towel can only occur with a Jacquard loom. This is one of the features of the present invention. This feature is not taught by Hobson or Carpenter et al.

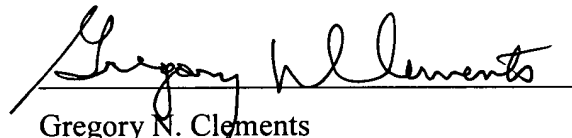
Other features of the present invention, which are claimed are: claim 23 calls for a dark border; claim 24 calls for a graphic impression having at least 2 colors in the linear woven direction, this cannot be done by Jacquard weaving alone; and claim 27 calling for a patterned border also requires the combination of Jacquard weaving and image dying. The features are not taught by Carpenter et al. or Hobson.

Filed simultaneously with this Amendment is an Affidavit under 37 C.F.R. 1.132. This Affidavit demonstrates commercial success of the product, which success is not due to

mere advertising alone since almost no advertising has taken place. The commercial success enjoyed by this product, as stated in the Affidavit, is due to the product ability to employ more than 2-color graphic imaging in the same linear direction, which is not possible with Jacquard woven products. The Affidavit is modeled after a court-approval affidavit in *In re Tiffin and Erdman*; 171 USPQ 294.

In view of the amendments to the specifications and claims, and further in view of the Affidavit of Commercial Success and in light of the above remarks, it is submitted that the present application is now in condition for allowance and such is earnestly solicited.

Respectfully submitted,



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**Version with Markings to Show Changes Made**

Claims 1 – 20 have been cancelled.